

Before the State of South Carolina
Department of Insurance

In the matter of:)	
)	File Number 2000-101416
Arnold F. Kinney,)	
)	Default Order Revoking
406 Indian Drive)	Resident Insurance Agent's License
Summerville, South Carolina 29483.)	
_____)	

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (Supp. 1999), by the State of South Carolina Department of Insurance upon Arnold F. Kinney, by both certified mail, return receipt requested, and by regular mail on July 17, 2000.

That letter informed Kinney of his right to request a public hearing upon the allegations of impropriety contained within the letter against him. The letter further warned him that failure to make a timely, written request for a hearing would result in my summary revocation of his license to do business as a resident insurance agent within the State of South Carolina. Kinney has failed to provide the Department with a current address in violation of S.C. Code Ann. § 38-43-107 (1989), and the United States Postal Service returned as undeliverable the letters sent by the Department. On July 21, 2000, therefore, counsel for the Department filed an Affidavit of Default, and the entire matter was submitted directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a resident insurance agent within the State of South Carolina for Monumental Life Insurance Company, Kinney failed to forward or satisfactorily account for \$7,875.93 in insurance premiums collected from citizens of this State.

S.C. Code Ann. § 38-43-130 (Supp. 1999) provides the Director or his designee "may revoke or suspend an agent's license after ten day's notice...when it appears that an agent...has violated this title or any regulation promulgated by the department, or has willfully deceived or dealt unjustly with the citizens of this State." This Code Section goes on within Subsection (3) to describe "deceived or dealt unjustly with the citizens of this State" specifically to include, "failing to transmit promptly or pay all or a portion of the amount of an insurance premium when the agent...has received payment from a customer or insured."


In accordance with my findings of fact, and considering Kinney's failure to avail himself of his opportunity to be heard, I now conclude, as a matter of law, that Kinney violated S.C. Code Ann. § 38-43-130 (Supp. 1999) and that his resident insurance agent's license should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's, *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 1999). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110(4) (Supp. 1999), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that the license of Arnold F. Kinney to do business as a resident insurance agent within the State of South Carolina be, and is hereby, revoked, and that no license issued through the State of South Carolina Department of Insurance is to be issued to him.

It is further ordered that a copy of this order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Arnold F. Kinney is currently licensed, through the State of South Carolina Department of Insurance, as a resident insurance agent within the State of South Carolina.

This order becomes effective as of the date of my signature below.


Ernst N. Csiszar
Director

July 26, 2000, at
Columbia, South Carolina

Before the State of South Carolina
Department of Insurance

In the matter of:

Arnold F. Kinney

406 Indian Drive

Summerville, South Carolina 29483.

File Number 2000-101416]

Affidavit of Default

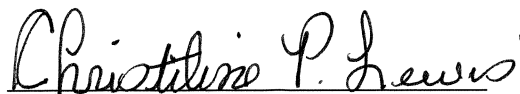
Personally appeared before me T. Douglas Concannon, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was the attorney representing the State of South Carolina Department of Insurance (the Department) in this administrative action. He further stated the following:

The Department served notice on Arnold F. Kinney at the address detailed above by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department would request the Director of Insurance to summarily revoke his license to act as a resident insurance agent within the State of South Carolina in ten days. The Department served that notice, pursuant to S.C. Code Ann. § 38-3-170 (Supp. 1999), by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." That letter further notified Kinney of his opportunity, within ten days, to request in writing a public hearing.

The United States Postal Service attempted to effect service of the notice by certified mail, return receipt requested, and by regular mail. However, the United States Post Office at Summerville, South Carolina, returned both letters to the Department, having marked them as "Moved Left No Address, Unable to Forward, Return to Sender." See "Exhibit A" attached. Kinney is required as a licensed insurance agent to notify the Department of any change of address within 30 days. See S.C. Code Ann. § 38-43-107 (1989). Kinney has made no request for a public hearing or any other response to the notice. The time in which to do so has expired. He therefore should be held in default.


T. Douglas Concannon
Associate General Counsel

Sworn to and subscribed before me
this 21st day of July 2000.



Christiline Lewis, Notary Public
My Commission Expires: 11/20/06

South Carolina Department of Insurance
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